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OFFICE OF PETITIONS

In re Application of :
Wolfinbarger et al. :
Application No. 09/940,545 :
Filed: August 29, 2001 :
Title: Plasticized Bone and Soft Tissue Grafts :
and Methods of Making and Using Same :

ON PETITION

This is a decision on the petition filed under 37 CFR 1.181 to withdraw the holding of abandonment filed May 4, 2006.

The petition to withdraw the holding of abandonment is Dismissed.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a response to the final Office Action of March 15, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR §1.136(a). This application became abandoned on June 16, 2005. A Notice of Abandonment was mailed on September 21, 2005.

Petitioner contends a reply to the March 15, 2005 final Office Action in the form of a Notice of Appeal and three month extension of time request were submitted on September 14, 2005. Petitioner has submitted a copy of the reply purportedly filed on September 14, 2005.

Petitioner's argument has been considered, but deemed unpersuasive. A review of the record shows that the request for Notice of Appeal and three month extension of time was received on September 14, 2005. However, both request authorized charging the applicable fees to invalid deposit account no. 3740-0395. A general authorization for

use by W. Jackson Matney, Jr. to charge fees was not previously provided. A second request for Notice of Appeal and three month extension of time was submitted on October 5, 2005. The October 5, 2005 request was untimely and inappropriately charged the requested fees to valid deposit account 50-3420. A third untimely request (which included a request for an oral hearing) was submitted on November 14, 2005. Both the October 5, 2005 and November 14, 2005 request for extension of time and Notice of Appeal were submitted beyond the maximum six month period for reply.

Further, the copy of the Notice of Appeal request provided by applicant on petition shows that the invalid deposit account number was crossed out and a valid deposit account number was entered. The copy provided on petition was not the copy that was transmitted to the Office on September 14, 2005. Accordingly, a timely request for Notice of Appeal and extension of time was not received because the requisite fees could not be charged due to the submission of an invalid deposit account. As such, the holding of abandonment cannot be withdrawn.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Petitioner may wish to seek revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.) U.S. Patent and Trademark Office
Customer Service Window,

Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at
(571) 272-3215.



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